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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/423,131

11/05/1999

HIROSHI KAWAKAMI

3815/90

6371

22913

7590

04/29/2005

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(F/K/A WORKMAN NYDEGGER & SEELEY)  
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EXAMINER

HOM, SHICK C


ART UNIT

PAPER NUMBER

2666

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b> 	
	09/423,131	KAWAKAMI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shick C Hom	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,9,11-19 and 21-23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 is/are allowed.
- 6) ☒ Claim(s) 3-8, 10, 20, 25-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2666

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 3-8, 10, 20, and 24-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claim 25 is objected to because of the following informalities: in claim 25 line 2, delete typo "the data r said" and insert ---the data, said---. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. Claims 3, 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3 line 13 which recite "the traffic condition" lacks clear antecedent basis because no traffic condition have been previously recited in the claim and therefore the limitation is not clearly understood.

Art Unit: 2666

Claim 20 is rejected under 35 U.S.C. 112, second paragraph because it depends from rejected claim 3.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2666

6. Claims 4, 8, 10, 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (5,978,380) in view of Reeder et al. (6,192,031).

Regarding claims 4, 10, 25, 26:

Kobayashi et al. disclose the traffic control method for carrying out traffic control of data taking place in a burst mode at a period time to the data (see col. 6 lines 12-31 which recite the channel capacity being set and controlled based on the average traffic volume whereby if the traffic volume is subjected to a burst increase, it may exceed the established channel capacity and the signals are rejected), said traffic control method comprising the steps of receiving the data; carrying out the traffic control of the data received such that a cumulative transmission volume in a traffic monitoring time defined by taking account of the proper time does not exceed an allowed transmission volume based on a traffic rate; and transmitting the data passing through said traffic control (see col. 7 line 36 to col. 8 line 43 which recite the channel capacity manager using a capacity steadying timer to measure a capacity steadying time whereby if the traffic volume is lowered below a threshold or increased before the capacity steadying timer fully measures the capacity steadying time the capacity

Art Unit: 2666

manage sets the channel capacity to a smaller or larger threshold, respectively, clearly reads on the traffic monitoring time being defined by taking account of the proper time not exceeding an allowed transmission volume based on a traffic rate).

Regarding claim 8:

Kobayashi et al. disclose wherein said data consists of ATM cells (see col. 4 lines 8-38 which recite the use of ATM cell).

For claims 4, 8, 10, 25, 26, Kobayashi et al. disclose all the subject matter of the claimed invention with the exception of the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data as in claims 4, 10, 25-26; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period as in claim 8.

Reeder et al. from the same or similar fields of endeavor teach that it is known to provide the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data (see col. 4 lines 11-27 which recite the measurement intervals being suitable period or cycle clearly anticipate the monitoring time being a period or cycle as in claims 4, 10, 25-26; and wherein the ATM cells being generated from a radio frame and period proper being a radio

Art Unit: 2666

frame period (see col. 1 lines 15-22 which recite the use of radio or microwave communication as in claim 8).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period as taught by Reeder et al. in the traffic control unit and method of Kobayashi et al. The traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period can be implemented by providing an interval of time whereby the traffic is monitored and providing wireless communication in the traffic control unit of Kobayashi et al. The motivations for providing the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period as taught by Reeder et al. in the traffic control unit and method of Kobayashi et al. being that they provides more reliability for the system since the system periodically and cyclically monitor the traffic to prevent loss

Art Unit: 2666

of data and providing the added feature of wireless communication.

***Allowable Subject Matter***

7. Claims 3, 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. Claim 24 is allowed.

9. Claims 5-7 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dighe et al. disclose UPC-based traffic control framework for ATM networks.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C Hom whose telephone number is 571-272-3173. The examiner can

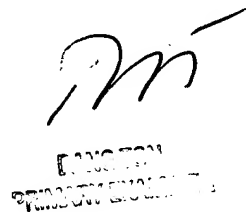
Art Unit: 2666

normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH

A handwritten signature, possibly "M", is written above a rectangular stamp. The stamp contains the word "RECEIVED" in a bold, sans-serif font, with some smaller, less legible text below it.